

REMARKS

Claims 1, 2, 4, 6-22 and 24-30 are pending and stand ready for further action on the merits. Claims 3, 5 and 23 are cancelled.

Support for the amendment to claim 1 can be found in cancelled claim 5 and the specification at page 12, lines 10-11. Support for the amendment to claim 17 can be found in cancelled claim 23. Claim 26 has been amended to be in independent form. Claim 22 has been amended for clarity by deleting the term "further".

No new matter has been added by way of the above-amendment.

The following sections correspond to the sections of the outstanding Office Action.

Issues Under 35 U.S.C. §112, second paragraph

The Examiner rejects claims 1, 2 and 4-10 under 35 U.S.C. §112, second paragraph as being indefinite. Specifically, the Examiner objects to the phrase "a strength at 5% elongation in the longitudinal direction of 150cN/10mm or less" as appearing in lines 3-4 of claim 1. The Examiner believes that the dimensions for this strength characteristic should be " mm^2 " and not "mm".

Applicants respectfully traverse the rejection.

In measuring the strength, the test piece has a width of 10 mm. Although "cN" is occasionally used by convention, technically the correct strength unit is "cN/mm²/10mm." This would be evident

from the standard experiment JIS K7127, as described on page 7, line 22 of the present specification.

In view of this fact, Applicants respectfully request the Examiner's comments as to whether it would be appropriate to amend the specification and claims to recite the strength unit of "cN/mm²/10mm."

Hayashida et al., US 6,117,553 and Seta et al. (DE19749765, and US Patent Application Publication 2003/0120014)

The following rejections are pending:

(A) claims 1, 2, 4 and 10 are rejected under 35 U.S.C. § 102(b) as being anticipated by Hayashida et al.; and

(B) claims 1, 2 and 4-10 are rejected under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Seta et al. (DE 19749765A1, the Examiner has used U.S. Patent Application Publication 2003/0120014 A1 to Seta et al. as an English language translation of the German patent).

Applicants respectfully traverse each of the rejections.

Regarding rejection (A), Applicants respectfully submit that the invention described in the version of claim 1 given in

Applicants' June 16, 2003 Amendment is neither anticipated nor rendered obvious by Hayashida et al.; however, in order to advance prosecution, Applicants have amended claim 1 to recite the subject matter of claim 5, a claim not currently under rejection.

Accordingly, rejection (A) is rendered moot.

Regarding rejection (B), Applicants respectfully submit that the presently claimed invention is not made obvious by Seta et al. Seta et al. provides a general teaching that the thickness of the non-stretched film is from 100 to 700 microns, see paragraph [0089]. However, Seta et al. neither teach nor suggest the inventive thickness ratio of 1:4:1 to 1:10:1 for the (first surface layer):(intermediate layer):(second surface layer). As described on page 12, lines 9-11 of the present specification, the inventive thickness ratio of 1:4:1 to 1:10:1 provides the wrap film with improved flexibility and moldability.

As the MPEP directs, all the claim limitations must be taught or suggested by the prior art to establish a *prima facie* case of obviousness. See MPEP §2143.03. Since Seta et al. fail to teach or fairly suggest the inventive thickness ratio, a *prima facie* case of obviousness cannot be said to exist. Accordingly, withdrawal of rejection (B) is respectfully requested.

Weiner US 4,339,495

Claims 17-22, 24 & 25 are rejected under 35 U.S.C. §102(b) as being anticipated by Weiner. Applicants respectfully traverse the rejection.

Applicants respectfully submit that claim 17, as originally filed, is neither anticipated nor rendered obvious by Weiner. However, in order to advance prosecution, Applicants have amended claim 17 to recite the subject matter of claim 23, a claim not currently under rejection. Accordingly, this rejection is rendered moot.

Babrowicz et al., EP 597502

Claims 27-30 are rejected under 35 U.S.C. § 102(b) as being anticipated by Babrowicz et al. Applicants respectfully traverse the rejection.

In support of this rejection, the Examiner states as follows:

Babrowicz et al. disclose a biaxially oriented multi layer film (Page 5, lines 8-26) comprising outer layers of propylene homopolymer or copolymer and core layer of ethylene alpha olefin copolymer (claims 14 and 15). The invention as claimed reads on film having no surface roughness.

Based on the Examiner's comments, it is unclear whether the Examiner has taken into consideration that inventive claim 27 requires that the thickness of the stretched film be from 8 to 15 microns.

Applicants respectfully submit that Babrowicz et al. fail to anticipate the invention described in independent claim 27, since Babrowicz et al. invariably prepare films in the examples having a thickness of 1 mm. Also, there is no suggestion by Babrowicz et al. throughout the entire document to modify the film thickness of 1 mm of the exemplified wrap film to be within the inventive range of 8-15 microns as recited in claim 27.

In describing the requirements for rejection of a claim by anticipation, the Manual of Patent Examining Procedure (Section 2131) states:

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference (ref. omitted). The identical invention must be shown in as complete detail as is contained in the... claim (ref. omitted).

Furthermore, in *Ex Parte Levy*, 17 USPQ2d 1461 (BPAI, 1990), the Board of Patent Appeals and Interferences has written:

Moreover, it is incumbent upon the Examiner to identify wherein each and every facet of the claimed invention is disclosed in the applied reference (ref. omitted).

Accordingly, Applicants respectfully indicate, every element in a claim must be found in the reference in order that the reference anticipates the claim. Since there is no suggestion by Babrowicz et al. throughout the entire document to modify the film thickness of 1 mm of the exemplified wrap film to be within the inventive range of 8-15 microns as recited in claim 27, the reference does not anticipate the claims. As such, Applicants respectfully request that the rejection be withdrawn.

Allowable Subject Matter

Applicants note with appreciation that the Examiner has indicated that claims 11-16 are allowed.

Conclusion

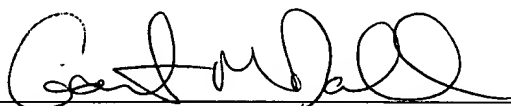
In view of the above amendments and comments, Applicants respectfully submit that the claims are in condition for allowance. A notice to such effect is earnestly solicited.

If the Examiner has any questions concerning this application, he is requested to contact Garth M. Dahlen, Ph.D., Esq., (#43,575) at the offices of Birch, Stewart, Kolasch & Birch, LLP.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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